GENERAL INSTRUCTIONS

The exam is lengthy. Take note of the point value of each section when budgeting your time. The basis of your analysis, unless otherwise specified, should be the common law and general American law, including statutes. Discuss, for contrast, minority positions, Massachusetts law and the Model Penal Code, where appropriate.

IDENTIFY YOURSELF BY SOCIAL SECURITY NUMBER ONLY.

TRY TO LIMIT YOUR EXAMINATION ANSWER TO TWO BLUE BOOKS. IF YOU MUST EXCEED THIS LENGTH, YOU MAY.

RELAX AND GOOD LUCK.

INSTRUCTIONS BY SECTION:

SECTION I: 30 POINTS

ANSWER ALL TEN QUESTIONS. BE CONCISE. A PARAGRAPH OR TWO SHOULD SUFFICE. YOU MAY, IF YOU WISH, USE OUTLINE FORM WHERE APPROPRIATE TO ANSWER BUT DO NOT NEGLECT TO DISCUSS THE LAW AND THE KEY FACTUAL POINTS AND TO CONCLUDE.

SECTION II: 70 POINTS

FOLLOW THE FACT PATTERN AND USE “IRAAC” IN THIS CLASSIC ISSUE HYPOTHETICAL QUESTION. BE SURE TO ISOLATE THE PARTIES, IDENTIFY AND DEFINE THE POSSIBLE CRIMES AND ANALYZE AND CONCLUDE, APPLYING THE FACTS TO THE LAW. PLEASE DO NOT FORGET TO ADDRESS AND EVALUATE ANY POSSIBLE DEFENSES.
SECTION I: 30 POINTS

1. In the State of Confusion, the fifty-first state in the Union, a statute prohibits the possession of kangaroos, such possession being punishable by "imprisonment in state prison for not more than six months."

   Is the crime a felony or a misdemeanor? What are the applicable standards in that determination?

2. What is the concept of "legality?"

3. What are the distinctions, generally, between involuntary manslaughter and criminally negligent homicide statutes?

4. Coke and Blackie are drinking at a local pub. Coke picks up a bottle and swings it at Blackie's head in the course of an argument. Blackie ducks and pulls out his pistol and points it at Coke. Coke responds by again swinging the bottle at Blackie's head, this time connecting and killing Blackie.

   Will Coke's claim of self defense be successful? At common law? Under the majority American position? Under the minority American position? How about Massachusetts?

5. Sherman suffers from a drug problem. He enters the Megapolitan Museum to get warm. Sherman sees a vase, similar to one his mother had purchased for him as a child. Nostalgic and suffering the effects of narcotic intoxication, Sherman picks up the vase and walks out of the museum. Sherman is apprehended. The vase is actually worth one-million dollars.

   What if any crime or crimes has Sherman committed? Why or why not? What issues are raised by the hypothetical?

6. Laurel is angry with Buster. Laurel speaks to Hardy, a known fire-starter and states, "I'll give you three grand to burn down Buster's barn."

   a. At this point, what, if any, crime has been committed by Laurel?

   b. Assume Hardy takes the money and nods in the affirmative. What, if any, crime has been committed and by whom? Why or why not?

   c. Assume the facts in (b.) with the additional fact that the barn is burned by Hardy. What if any crime or crimes has been committed and by whom?
7. a. Omar enters Fluffy Furriers, a shop on fashionable Newby Street. Omar approaches the sales clerk, Marshall, and says, “I paid the owners for the mink hanging there behind the counter. Give it to me.” Marshal gives Omar the fur. Omar leaves with it. In fact, Omar had not paid for the mink.

What, if any, crime(s) has been committed. Why or why not?

b. Wavell is employed by “Beemers is Us,” a high end automobile dealership. The owner, Brooke, has given Wavell a prototype rocket-powered Beemer to show, but not to sell. Wingate, a customer, enters the store and offers Wavell one-million dollars for the rocket-powered Beemer. Wavell takes the money and signs over the title of the car to Wingate. Wingate drives off. Wavell pockets the million.

What if any crimes have been committed and by whom?

8. Linnaeus is at home and hears a knock on the door. His brother, Gustav, enters. Gustav states, “I just shot Karl down by the river. He was breathing when I left.” Linnaeus takes Gustav upstairs and tells him to hide under a bed. Gustav does. In fact, Karl dies just after Linnaeus leaves the bedroom.

Assume Gustav is charged with murder and later found not guilty by reason of insanity. What if any crime(s) has Linnaeus committed?

9. Toby is approached on the street by Peter, an undercover narcotics officer. Peter says, “Toby, I got some powder here, a little coke, wanna go back to the eighties?” Toby, a recovering cocaine addict, declines. On three subsequent occasions, Peter similarly approaches Toby. On the last occasion, Toby buys the cocaine. Toby’s reason for buying the cocaine was to save another potential addict from getting hooked.

Toby is charged with possession of cocaine.

What if any defense(s) could be raised by Toby? What are the standards? Are any other issues raised?

10. Yeats and Joyce become embroiled in an argument. Yeats pulls his trusty shotgun and shoots Joyce, killing him. Can Yeats be convicted on a common law felony murder theory? Why or why not?
SECTION II: 70 POINTS
HYPOTHETICAL

The picturesque village of Lexingcon, in the state of Confusion, the fifty-first state in the Union, is a powerful magnet for those seeking to relive the thrill of the American Revolution. Tourists flock each April to get in touch with their national roots on the anniversary of the great battle.

The Lexingcon Green, the scene of the ancient bloodshed, is now a quiet, well maintained town common, ringed by stately homes. One of the homes has been converted into a small hotel, The Old Musket Inn, hereinafter "the Inn." The Inn is maintained by George and Martha, whose stormy marriage has not been helped by their business relationship. As the anniversary approaches, guests from the world over check in.

The Bunker Hill Suite is occupied by Benji and Abby from New York. The Valley Forge Suite is occupied by Seth and Molly of London and the Trenton Suite is occupied by Benedict and Deborah of North Dakota.

The evening before the reenactment of the battle, the three couples meet in the One if By Land Bar. After the introductions and a few drinks Benji says, "Hey, let's have some fun with the reenactors. Let's mess up their little battle." The six discuss a plot whereby they will disrupt the battle by plugging up the musket barrels with glue and placing trip wires and digging holes on the Green.

Deborah states, "I'm not doing that." Deborah gets up and leaves the table, retiring for the evening. Benedict states, "She's a killjoy," nods, and follows his wife to their suite. Seth, Molly, Abby and Benji continue to drink.

Following a boozy dinner, Benji and Seth sneak from the Inn and find the storage shed, next to Issac's house, where the muskets are kept. They climb in the open window, Benji first and then Seth, Seth nudging the window with his backside. Once inside the two clog up some of the musket barrels with glue. They leave the same way, this time opening the window further for easier egress.

At the same instant, Molly sits on the porch of the Inn and watches as Abby strings trip wires around the trees on the Green. Seth and Benji join Abby and the three dig holes on the Green, strategically placed for the reenactors to fall into. The four then retire for the evening.

George and Martha, meanwhile, are engaged in their usual argument about the financial burden they face. The arguments have become violent in the past and this is no exception. Martha picks up her replica spinning wheel and swings it at George, striking him in the head. George then grabs his replica flintlock pistol and takes aim and fires striking Martha in the collarbone area. Martha falls. George calls an ambulance. The emergency medical team arrives and places Martha on a stretcher. As they try to negotiate the narrow colonial style staircase one of the medical technicians, Oafy, trips, dropping the stretcher. Martha is sent airborne, tumbles down the stairs and into the living room below and is impaled on a fireplace andiron. Martha is then brought to Helpus Hospital where Dr. Butcher is the only physician working. Dr. Butcher evaluates Martha's condition and decides to perform an emergency surgery to save her life by removing the andiron. Unfortunately, Dr. Butcher is a psychiatrist who has not performed surgery since his medical school days. Dr. Butcher nicks an artery and Martha bleeds to death.